

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

ROBERTA BOYD,) Cause No. CV 09-84-SEH-RKS
)
Petitioner,)
)
vs.) FINDINGS AND RECOMMENDATION
) OF U.S. MAGISTRATE JUDGE
FORT PECK TRIBES,)
)
Respondent.)

On September 10, 2009, Petitioner Roberta Boyd filed this action seeking a writ of habeas corpus under 25 U.S.C. § 1303. Petitioner is proceeding pro se.

The Fort Peck Tribal Court ordered Petitioner to pay a \$500.00 fine for criminal contempt. Pet. (doc. 1) at 2 ¶¶ 3-4. A writ of habeas corpus is available under 25 U.S.C. § 1303 “to test the legality of his detention by order of an Indian tribe.” The phrase “detention” has the same meaning as “custody” under 28 U.S.C. §§ 2241 and 2254. Imposition of a fine does not constitute custody or detention.

Moore v. Nelson, 270 F.3d 789, 791-92 (9th Cir. 2001). The writ of habeas corpus is not available. The Court lacks subject matter jurisdiction to entertain this action. It should be dismissed.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

1. The Petition (doc. 1) should be DISMISSED.
2. The Clerk of Court should be directed to enter by separate document a judgment of dismissal.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &
RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), Petitioner may serve and file written objections to this Findings and Recommendations within ten (10) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

Petitioner must immediately notify the Court of any change in her mailing address while this case remains pending by filing a "Notice of Change of Address."

Failure to do so may result in dismissal of this case without notice to her.

DATED this 14th day of September, 2009.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge